

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eliana Behar	Team: Squad #1	CCRB Case #: 201908627	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 10/01/2019 11:00 AM	Location of Incident: § 87(2)(b)	Precinct: 122	18 Mo. SOL 4/1/2021	EO SOL 11/16/2021	
Date/Time CV Reported Tue, 10/01/2019 11:36 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 10/01/2019 11:36 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Jesse Colon	1559	948008	122 DET
2. POM James Gaynor	24434	954855	122 DET

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Jesse Colon	Abuse: Detective Jesse Colon threatened to damage § 87(2)(b)'s property.	§ 87(2)(b)
B.DT3 Jesse Colon	Abuse: Detective Jesse Colon entered § 87(2)(b) on Staten Island.	§ 87(2)(b)
C.DT3 Jesse Colon	Abuse: Detective Jesse Colon threatened to arrest § 87(2)(b).	§ 87(2)(b)
D.DT3 Jesse Colon	Abuse: Detective Jesse Colon failed to provide § 87(2)(b) with a business card.	§ 87(2)(b)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

Case Summary

§ 87(2)(b) filed this complaint with the CCRB by telephone on October 1, 2019.

On October 1, 2019 Detective Jesse Colon and Police Officer James Gaynor of the 122nd Precinct Detective Squad arrived at § 87(2)(b)'s residence at § 87(2)(b) in Staten Island in search of § 87(2)(b)'s ex-boyfriend, § 87(2)(b) § 87(2)(b) who she had an active order of protection against. Det. Colon went to § 87(2)(b)'s door and threatened to break it down if she did not open it for him (**Allegation A: Abuse of Authority**, § 87(2)(g) § 87(2)(b) opened her door for Det. Colon, and he entered her home (**Allegation B: Abuse of Authority**, § 87(2)(g) Det. Colon threatened to arrest § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g) Det. Colon did not provide § 87(2)(b) with his business card (**Allegation D: Abuse of Authority**, § 87(2)(g) § 87(2)(b)

§ 87(4-b), § 87(2)(g)

There is no Body Worn Camera footage associated with this incident as the 122nd Precinct Detective Squad was not assigned Body Worn Cameras.

Findings and Recommendations

Allegation A-Abuse of Authority: Detective Jesse Colon threatened to damage § 87(2)(b)'s property.

Allegation B-Abuse of Authority: Detective Jesse Colon entered § 87(2)(b) on Staten Island.

It is undisputed that § 87(2)(b) was inside § 87(2)(b)'s home when Det. Colon and PO Gaynor arrived and that they saw § 87(2)(b) through the window. It is also undisputed that Det. Colon entered § 87(2)(b)'s home to search for § 87(2)(b) § 87(2)(b)

§ 87(2)(b) stated that she and § 87(2)(b) were in her bedroom, located at the back of her house, when she saw Det. Colon and PO Gaynor outside her window located on the side of the house. § 87(2)(b) said that when she noticed PO Gaynor and Det. Colon, she told § 87(2)(b) that officers were outside and he should turn himself in. § 87(2)(b) § 87(2)(b) walked to the front entrance of § 87(2)(b)'s home, and § 87(2)(b) pointed to the front of the house and told the officers that § 87(2)(b) was headed to the front of the home. Det. Colon then went to § 87(2)(b)'s back door rather than the front of the house. Det. Colon and § 87(2)(b) could see each other through the door and Det. Colon told § 87(2)(b) that if she did not open the door for him, he would break it down. Fearful that Det. Colon would break down her door, § 87(2)(b) opened her door for him and told him that he could enter and look for § 87(2)(b) When § 87(2)(b) opened her back door, her dog ran out and § 87(2)(b) followed. After retrieving her dog, § 87(2)(b) § 87(2)(b) went around outside to the front of her house, where she met up with Det. Colon. Det. Colon was unable to find § 87(2)(b) (Board Review 07).

Det. Colon stated that he went with PO Gaynor to § 87(2)(b)'s home in order to apprehend § 87(2)(b) who had a warrant out for his arrest. Det. Colon stated that when he arrived at § 87(2)(b)'s home, he saw § 87(2)(b) through the front window of the house. Det. Colon spoke with § 87(2)(b) through her front door, however he did not recall their conversation. He did not remember telling § 87(2)(b) that he would break down her door if she did not open it for him. Det. Colon stated that § 87(2)(b) gave him permission to enter her home to search for § 87(2)(b) and said that his reason for entering her home was because he believed § 87(2)(b) was inside the home. Det. Colon also stated that he never went to the back of § 87(2)(b)'s home (Board Review 08).

PO Gaynor did not recall this incident (Board Review 03).

According to, *People v. Gonzalez*, 39 NY2d 122 (1976) (Board Review 13) an entry based upon consent must be voluntary and absent coercion.

§ 87(2)(g)
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Allegation C – Abuse of Authority: Detective Jesse Colon threatened to arrest § 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) had an order of protection against § 87(2)(b) and allowed him to enter her home on October 1, 2019, did not notify the NYPD of his presence, and informed him of the officers' arrival at her home. § 87(2)(b) stated that she was unaware that § 87(2)(b) escaped through her front door while she went to open the back door for Det. Colon. § 87(2)(b) stated that when she spoke to Det. Colon at the front of her house, he told her that he did not find § 87(2)(b) threatened to "collar" § 87(2)(b) and told her to have § 87(2)(b) turn himself in that day (Board Review 01).

Det. Colon stated that § 87(2)(b) could have been arrested on October 1, 2019 for harboring § 87(2)(b) and obstructing Det. Colon's ability to apprehend § 87(2)(b). Det. Colon also stated that he explained to § 87(2)(b) that since she had an order of protection against § 87(2)(b) harboring him would be an obstruction of the order and she could therefore be arrested (Board Review 02).

Based on NY Penal Law Article 205.50, hindering prosecution is defined as when a person, with intent to prevent, hinder or delay the discovery or apprehension of a person who he knows or believes has committed a crime or is being sought by law enforcement officials for the commission of a crime, harbors or conceals such a person or warns the person of impending discovery or apprehension (Board Review 04).

§ 87(2)(g)

Allegation D-Abuse of Authority: Detective Jesse Colon failed to provide § 87(2)(b) with a business card.

It is undisputed that Det. Colon was the detective assigned to § 87(2)(b)'s case and had been to her home on several occasions.

§ 87(2)(b) stated that Det. Colon did not provide her with his business card during this incident, and despite being the detective assigned to her case, he had never given her his business card. § 87(2)(b) however, acknowledged that she knew Detective Colon's name because he had been to her home on prior occasions, and knew that he was the detective assigned to her case (Board Review 07).

According to Det. Colon, he provided § 87(2)(b) with his business card in the past, however he did not recall if on the date in question he provided her with his business card (Board Review 08).

Based on New York City Administrative Code §14-174, the assigned detective must offer a business card at the conclusion of home searches when said law enforcement does not end in an arrest or summons and where such activity is the first in-person investigatory questioning of the victim (Board Review 12).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (Board Review 11).
- Detective Jesse Colon has been a member of service for 10 years and has been a subject in four CCRB cases and seven allegations, none of which were substantiated. § 87(2)(g)
- Police Officer James Gaynor has been a member of service for six years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of December 10, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (Board Review 05).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 1

Investigator: _____
Signature Print Title & Name Date

Squad Leader: Mgr. Joy Almeyda 4/21/20
Signature Print Title & Name Date